IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5589 of 1997

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

DK SAIYAD - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

MR IS SUPEHIA for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 06/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 30.07.1997 passed by the Industrial Tribunal, Ahmedabad, in Reference (IT) No. 192 of 1997, whereby the said reference was partly allowed.

2.0 The respondent herein preferred an application for the Post of a Helper before the petitioner Corporation. In the said application form, the respondent had mentioned his date of birth as 02.04.1938. On his selection, he was appointed to the Post of Helper in the petitioner Corporation on 18.05.1957.

2.1 It is the case of the petitioner Corporation that as per Service Regulation No.5 of the petitioner Corporation, it was mandatory for an employee to produce documentary evidence in support of his date of birth. The said Rule further provides that if such Certificate was not produced or such birth date was not known, the Certificate of the Civil Surgeon was to be obtained for the purpose of computing the age. Since the respondent did not produce any documentary evidence in support of his age, he was sent to the Civil Surgeon for medical examination. He was examined by the Civil Surgeon and it was certified that the respondent was of the age of 19 years. Accordingly, change was made in the service book of the respondent and his birth date was mentioned as 01.07.1939 instead of 02.04.1938.

2.2 On 24.12.1996, the respondent made an application to the petitioner Corporation to change his birth date from 01.07.1938 to 01.08.1940. The said application was rejected by the petitioner by communicated dated 18.02.1997. Thereafter, the petitioner issued Notice dated 07.01.1997, wherein it was stated that the respondent would retire on 31.07.1997. On 24.07.1997, the respondent approached the Industrial Tribunal, Ahmedabad, by way of a reference, praying for interim relief against his superannuation

w.e.f. 31.07.1997.

2.3 The Tribunal by interim order dated 30.07.1997, directed the petitioner to continue the respondent in service till the final disposal of the said reference. Feeling aggrieved by the said order, the petitioner has preferred this petition before this Court.

3.0 I have heard learned counsel for the petitioner and perused the documents placed on record. While admitting the matter on 01.08.1997, this Court had stayed the operation of the interim order of the Industrial Tribunal dated 30.07.1997, till the disposal of the petition. Since the reference in question is still pending, it would be appropriate to continue the aforesaid interim relief granted by this Court, till the final disposal of the reference in question.

4.0 In above view of the matter, the Industrial Tribunal, Ahmedabad, is directed to expedite the hearing of the reference in question and to dispose it of within a period of one year from the receipt of writ of this order, if the same is not disposed of so far. The interim relief granted by this Court by order dated 01.08.1997 shall continue till the final disposal of the reference in question. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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